

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NELSON MC CAULEY,

Defendant.

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8:08CR329

ORDER

This matter is before the court on the motion to continue by defendant Nelson McCauley (McCauley) (Filing No. 20). McCauley seeks a continuance of the trial of this matter which is scheduled for November 10, 2008. McCauley's counsel represents that McCauley will submit an affidavit wherein he consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. McCauley's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

**IT IS ORDERED:**

1. McCauley's motion to continue trial (Filing No. 20) is granted.
2. Trial of this matter is re-scheduled for **December 29, 2008**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **October 22, 2008 and December 29, 2008**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 22nd day of October, 2008.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge